

**Remarks**

Applicant has reviewed the Office Action dated as mailed April 10, 2007 and the documents cited therewith. After the above amendments have been made, the present application contains claims 1-19, 21-27, and 29-46. Claims 1, 11, 21, 22, 24, 25, 31, 32, 33 and 36-46 have been amended. Claims 20 and 28 have been canceled.

**Claim Rejections under 35 U.S.C. §101**

Claims 11-14, 16, 18-27, 29, 31-34, and 36-46 were rejected under 35 U.S.C. §101 in the Office Action as being directed to non-statutory subject matter. This rejection is respectfully traversed. With regard to the rejection of claims 11-14, 16, and 18-20, independent claim 11 has been amended to recite: “presenting the impact to a user.” Applicant respectfully submits that claim 11 as amended recites what would amount to a useful, concrete and tangible result.

Claims 12-14, 16, and 18-20 depend directly from independent claim 11. Therefore, these claims are also submitted to convey a useful, concrete and tangible result under 35 U.S.C. §101. Reconsideration and withdrawal of the rejection of claims 11-14, 16, and 18-20 under 35 U.S.C. §101 is respectfully requested.

With regard to the rejection of claims 21-27, 29, and 30, independent claim 21 has been amended to recite: “a display to present the impact to a user.” Accordingly, claim 21 as amended is submitted to produce a useful, concrete and tangible result. Claims 22-27, and 29-30 depend either directly or indirectly from independent claim 21. Therefore, these claims are also submitted to produce a useful, concrete and tangible result. Reconsideration and withdrawal of the rejection of claims 21-27, and 29-30 under 35 U.S.C. §101 is respectfully solicited.

Turning now to the rejection of claims 31-34 under 35 U.S.C. §101, claim 31 has been amended to recite: “providing a display to present the impact to a user.” Thus, claim 31 has been amended to produce a useful, concrete and tangible result. Claim 32-34 depend either directly or indirectly from independent claim 31. Accordingly, claims 32-34 are also submitted to produce a usable, concrete and tangible result. Reconsideration and withdrawal of the Section 101 rejection of claims 31-34 is, therefore, respectfully requested.

Regarding the rejection of claims 36-46 under 35 U.S.C. §101, independent claim 36 has been amended to recite: “a computer-readable medium encoded with computer-executable instructions for performing a method....” The MPEP §2106.01 I, first paragraph provides that a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure’s functionality to be realized, and is thus statutory. Independent claim 36 as amended recites a computer-readable medium encoded with a data structure or computer-executable instructions and is therefore submitted to constitute statutory subject matter under MPEP §2106.01.

Claims 37-46 have been amended to also recite that the computer-readable medium is coded with computer-executable instructions. Therefore, these claims are also submitted to recite statutory subject matter. Reconsideration and withdrawal of the rejection of claims 36-46 under 35 U.S.C. §101 is respectfully requested.

**Claim Rejections under 35 U.S.C. §102**

Claims 1-12, 14-26, and 28-46 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,406,476 to Deziel, Jr., et al. (hereinafter Deziel). This rejection is respectfully traversed. Turning initially to the rejection of claims 1-10 under 35 U.S.C. §102(b) as being anticipated by Deziel, claim 1 has been amended to recite:

“determining an estimated project churn, wherein project churn includes any identifiable and unplanned changes to a scope of a project....”

The Office Action asserted that column 15, lines 63-68 teach determining an estimated project churn. Column 15, line 63-68 of Deziel recite:

“to take into account the short falls which may occur between the finish times of inbound activities and recurrent activity at step 209, the delay, d<sup>^</sup>, is calculated. d<sup>^</sup> is the amount the start time is delayed to account for shortfalls between the finished times of incoming activities and the current activity’s start time.”

Applicant respectfully submits that Deziel does not teach or suggest determining an estimated project churn wherein project churn includes any identifiable and unplanned changes to a scope

of the project as provided by the embodiment of the present invention as recited in independent claim 1. Therefore, claim 1 is submitted to be patentably distinguishable over Deziel, and reconsideration and withdrawal of the 35 U.S.C. §102 rejection of independent claim 1 is respectfully requested.

Regarding the rejection of claims 2-10 under 35 U.S.C. §102(b) as being anticipated by Deziel, these claims recite additional features which further patentably distinguish over Deziel. Claim 2 recites:

“wherein determining the estimated project churn comprises collecting heuristic information on each task of the project requiring rework or modification in response to any potential project changes.”

The Office Action asserted that column 7, lines 58-67 shows collecting heuristic information for every such activity or task of the project. Applicant respectfully disagrees. Column 7, lines 58-67 of Deziel recite:

“In box 101, the user or manager defines the project network. This is done by identifying all of the activities that a project will entail as well as the necessary order (precedence) for carrying out the activities. The precedence is specified according to precedence arcs which identify for each activity those activities (if any) which must be scheduled and completed before the current activity can be scheduled. The user will also specify the parameters of a probability distribution on activity duration for each activity. Any parametric form of probability distribution may be used.”

Applicant respectfully submits that this recitation from Deziel does not teach or suggest collecting heuristic information on each task of the project requiring rework or modification in response to any potential project changes as provided by the embodiment of the present invention as recited in claim 2.

Claim 7 recites, “entering a weight factor for each optimistic, pessimistic and expected time requirement.” The Office Action asserted column 8, lines 5-7, in rejecting claim 7. Column 8, lines 5-7 of Deziel recite:

“A confidence level used to predict finish times for the activities and project is also specified by the user.”

Applicant respectfully submits that this recitation from Deziel does not teach or suggest entering a weight factor for each optimistic, pessimistic and expected time requirement as provided by the embodiment of the present invention as recited in claim 7.

Claim 8 recites, “performing a weighted average duration analysis on the average time requirement for each task of the project requiring rework or modification in response to any potential project changes.” The Office Action cited column 8, lines 24-26, in rejecting claim 8. Column 8, lines 24-26 of Deziel recite:

“(3) In box 103, an initial estimate of the project’s duration is calculated using  $N^{-1} (\% | t_j^u, t_j^v)$  for each activity’s duration.”

Applicant respectfully submits that this recitation from Deziel does not teach or suggest the features of the present invention as recited in claim 8.

Claim 10 recites: “tracking reworked tasks and time duration to complete each reworked task during the course of the project.” The Office Action asserted that column 19, lines 19-28, in rejecting claim 10. Applicant respectfully submits that column 19, lines 19-28, of Deziel merely indicate that the project network is scheduled and available for review and utilization by the user for managing a project and allocating tasks and resources according to the scheduled project and that the variety of information may be viewed in a variety of formats. Applicant respectfully submits there is no teaching or suggestion in Deziel of tracking reworked tasks in time duration to complete each reworked task during the course of the project as provided by the embodiment of the present invention recited in claim 10.

In reciting additional features which further patentably distinguish over Deziel, as discussed above, claims 2-10 also depend either directly or indirectly from independent claim 1. Because of this dependency, claims 2-10 include all of the features of independent claim 1. Therefore, claims 2-10 are also submitted to be patentably distinguishable over Deziel, and reconsideration and withdrawal of the 35 U.S.C. §102 rejection of claims 2-10 is respectfully solicited.

Turning now to the rejection of claims 11, 12, and 14-20 under 35 U.S.C. §102(b) as being anticipated by Deziel, independent claim 11 has been amended to recite:

“entering a weighting factor for each of the optimistic, pessimistic and expected time requirements to perform a weighted average duration analysis;

determining an average time requirement to rework or modify each task requiring rework or modification in response to any potential project changes;

performing the weighted average duration analysis on any tasks requiring rework or modification in response to any potential project changes;

determining an impact to the project in response to the weighted average duration analysis....”

As discussed with respect to claim 7 above, Deziel at column 8, lines 5-7, only teaches a confidence level used to predict finish times for the activities and project which is specified by the user and Deziel does not teach or suggest entering a weight factor for each of the optimistic, pessimistic and expected time requirements to perform a weighted average duration analysis as provided by the embodiment of the present invention as recited in independent claim 11.

Column 8, lines 24-26, were cited in the Office Action for rejecting the feature of determining an average time requirement to rework or modify each task requiring rework or modification in response to any potential project changes. Column 8, lines 24-26, of Deziel recites:

“(3) In box 103, an initial estimate of the project’s duration is calculated using  $N^{-1} (\% | t_j^u, t_j^v)$  for each activity’s duration.”

Nor does this section of Deziel teach or suggest performing a weighted average duration analysis on any task requiring rework or modification in response to any potential project changes as provided in the embodiment of the present invention as recited in independent claim 11. For all of the reasons professed above, independent claim 11 is respectfully submitted to be patentably distinguishable over Deziel, and reconsideration and withdrawal of the 35 U.S.C. §102 rejection of independent claim is respectfully requested.

With regard to the rejection of claims 12 and 14-20, these claims recite additional features which further patentably distinguish over Deziel. Additionally, these claims depend

either directly or indirectly from independent claim 11, and by virtue of that dependency, include all of the features of independent claim 11. Therefore, claims 12 and 14-19 are submitted to be patentably distinguishable over Deziel.

Regarding the rejection of independent claim 21 under 35 U.S.C. §102(b) as being anticipated by Deziel, claim 21 has been amended to recite:

an analysis program operable on the processor to determine an impact to the project in response to any potential project changes using the heuristic information, wherein the analysis program is adapted to utilize an optimistic, pessimistic and expected time requirements for each task of the project and a weighting factor for each of the optimistic, pessimistic and expected time requirements to determine the impact to the project....”

As previously discussed, Deziel does not teach or suggest an analysis program that uses heuristic information to determine an impact to the project nor does Deziel teach or suggest that the analysis program utilizes a weighting factor for each of the optimistic, pessimistic and expected time requirements to determining the impact to the project as provided by the embodiment of the present invention as recited in independent claim 21. Therefore, independent claim 21 is respectfully submitted to be patentably distinct over Deziel, and reconsideration and withdrawal of the Section 102 rejection of independent claim 21 is respectfully solicited.

Regarding the rejection of claims 21-26 and 29-30, these claims recite additional features which further patentably distinguish over Deziel. Additionally, claims 22-26 and 29-30 depend either directly or indirectly from independent claim 21. Because of this dependency, claims 22-26 and 29-30 include all of the features of independent claim 21. Accordingly, claims 22-26 and 29-30 are also submitted to be patentably distinct over Deziel, and reconsideration and withdrawal of the Section 102 rejection of these claims is respectfully requested.

Turning now to the rejection of independent claim 31 under 35 U.S.C. §102(b) as being anticipated by Deziel, claim 31 recites similar features to independent claim 21. Therefore independent claim 31 is submitted to be patentably distinguishable over Deziel for the same reasons as discussed with respect to independent claim 21.

With respect to the rejection of claims 32-35, these claims recite further features which patentably distinguish over Deziel. Additionally, these claims depend either directly or indirectly from independent claim 31, and by virtue of that dependency, include all of the features of independent claim 31. Therefore, these claims are also submitted to be patentably distinguishable over Deziel, and reconsideration and withdrawal of the Section 102 rejection of these claims is respectfully requested.

Turning now to the rejection of claims 36-46 under 35 U.S.C. §102(b) as being anticipated by Deziel, independent claim 36 recites similar features to independent claim 1. Therefore, independent claim 36 is submitted to be patentably distinguishable for the same reasons as discussed with respect to claim 1. Claims 37-48 recite additional features which further patentably distinguish over Deziel. Additionally, these claims depend either directly or indirectly from independent claim 36, because of this dependency, claims 37-46 include all of the features of independent claim 36. Therefore, claims 36-46 are also submitted to be patentably distinguishable over Deziel, and reconsideration and withdrawal of the Section 102 rejection of these claims is respectfully requested.

**Claim Rejections under 35 U.S.C. §103**

Claims 13 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Deziel in view of U.S. Patent No. 5,826,236 to Narimatsu, et al. (hereinafter Narimatsu). This rejection is respectfully traversed. Claim 13 depends directly from independent claim 11 and claim 27 depends indirectly from independent claim 21. Because of these dependencies, claims 13 and 27 include all of the features of the referenced independent claim and any intermediate claims. Applicant respectfully submits that Narimatsu adds nothing to the teachings of Deziel so as to render independent claims 1 and 21 unpatentable. Therefore, claims 13 and 27 are respectfully submitted to be patentably distinguishable over Deziel and Narimatsu, and reconsideration and withdrawal of the Section 103 rejection of claims 13 and 27 is respectfully solicited.

Conclusion

For the foregoing reasons, the Applicant respectfully submits that all of the claims in the present application are in condition for allowance. Reconsideration and withdrawal of the rejections and allowance of the claims at the earliest possible date are respectfully requested.

If the Examiner has any questions about the present Amendment or anticipates finally rejecting any claim of the present application, a telephone interview is requested.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 09-0461.

Respectfully submitted,

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